MONTANA LEGISLATIVE HISTORY

Chapter 304 19 97

Bill H _____ S 379 Original bill & history ✓ C

H. Committee on Business & Labor		S. Committee on Business & Industry	
Hearing Date(s) Mar 29	✓ C	Hearing Date(s) Feb 21	✓ C
_____	____ C	_____	____ C
_____	____ C	_____	____ C
_____	____ C	_____	____ C
Date Out _____	____ C		

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

1997 LEGISLATIVE HISTORY

The 1997 Montana Legislature has dramatically changed the nature of the legislative minutes. Specifically, the minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are somewhat fuller in content. Exhibits available from the State Law Library (which may include written statements, attendant information, roll call votes, roll call attendance, a list of public members present, specific action taken on legislative bills, etc.) are included with this request. For information on other exhibits, contact the Montana Historical Society Archives at 444-4774. Exhibits may also be purchased on a CD-ROM from the Montana Legislative Council (444-3064).

Just as in the 1995 legislative session, the House and Senate hearings were recorded. The Historical Society is the depository for the tapes. For information on accessing the tapes, call the archives at 444-4774.

If you have concerns over the format of the 1997 legislative minutes, it is suggested that you contact your state legislators.

SB 379 INTRODUCED BY LYNCH, ET AL. *LC1265 DRAFTER: BOHYER*

REVISE CONSUMER LOAN LAWS

2/18	INTRODUCED		
2/18	FIRST READING		
2/18	REFERRED TO BUSINESS & INDUSTRY		
2/21	HEARING		
2/21	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/24	2ND READING PASSED	50	0
2/25	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
3/03	FIRST READING		
3/03	REFERRED TO BUSINESS & LABOR		
3/27	HEARING		
3/27	HEARING		
4/03	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/04	2ND READING CONCURRED	92	7
4/05	3RD READING CONCURRED	90	10
	RETURNED TO SENATE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS CONCURRED	50	0
4/10	3RD READING CONCURRED AS AMENDED	50	0
4/15	SIGNED BY PRESIDENT		
4/16	SIGNED BY SPEAKER		
4/16	TRANSMITTED TO GOVERNOR		
4/23	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 374		
	EFFECTIVE DATE: 10/01/97		

SB 380 INTRODUCED BY DEVLIN, ET AL. *LC1303 DRAFTER: BOHYER*

PROHIBIT THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FROM CHARGING A LESSEE OF CERTAIN STATE LAND A FEE FOR EXERCISING THE LESSEE'S LEASE RENEWAL PREFERENCE RIGHT

2/18	INTRODUCED
2/18	FIRST READING
2/18	REFERRED TO NATURAL RESOURCES
2/18	FISCAL NOTE REQUESTED
2/20	FISCAL NOTE RECEIVED
2/20	FISCAL NOTE PRINTED
2/21	HEARING
2/22	TABLED IN COMMITTEE
4/05	MISSED DEADLINE FOR 71ST DAY TRANSMITTAL
	DIED IN COMMITTEE

SB 381 INTRODUCED BY BENEDICT, ET AL. *LC1103 DRAFTER: CAMPBELL*

EXCLUDE THE APPLICABILITY OF MANDATED INSURANCE BENEFIT PROVISIONS AND FREEDOM OF CHOICE OF PRACTITIONER PROVISIONS FROM GROUP AND INDIVIDUAL UNIFORM HEALTH BENEFIT PLANS

2/18	INTRODUCED		
2/18	FIRST READING		
2/18	REFERRED TO BUSINESS & INDUSTRY		
2/20	HEARING		
2/21	COMMITTEE REPORT—BILL PASSED		
2/24	2ND READING PASSED	40	9
2/25	3RD READING PASSED	41	9

INTRODUCED BY Senate BILL NO. 379

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CONSUMER LOAN LAWS; SPECIFYING THAT, WITH RESPECT TO LOANS ON WHICH CHARGES ARE MADE ON AN ADD-ON BASIS, THE INSTALLMENT CONTRACTED FOR MAY NOT BE SUBSTANTIALLY LARGER THAN ANY PRECEDING INSTALLMENT; SPECIFYING THAT, WITH RESPECT TO LOANS ON WHICH CHARGES ARE MADE ON AN ADD-ON BASIS, THE MINIMUM MONTHLY PAYMENTS MUST BE MADE IN AN AMOUNT THAT WOULD RESULT IN THE FULL REPAYMENT OF THE INITIAL LOAN ADVANCE, EXCLUSIVE OF ANY CHARGES, WITHIN A STATUTORILY-SPECIFIED MAXIMUM TERM; SETTING A 30-DAY LIMIT FOR CERTAIN CONSUMER LOAN LICENSEES TO RETURN TO CERTAIN BORROWERS A RELEASE OF THE MORTGAGE OR A REQUEST FOR RECONVEYANCE OF THE DEED OF TRUST OR TRUST INDENTURE ON REAL PROPERTY TAKEN AS SECURITY FOR A LOAN; AND AMENDING SECTIONS 32-5-102, 32-5-103, 32-5-203, 32-5-302, 32-5-307, 32-5-503, AND 32-5-505, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 32-5-102, MCA, is amended to read:

"**32-5-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) (a) "Consumer loan" means credit offered or extended to an individual primarily for personal, family, or household purposes, including loans for purposes that are secured by a mortgage, deed of trust, trust indenture, or other security interest in real estate.

(b) Consumer loans do not include real estate-secured loan transactions that are governed by 12 U.S.C. 1735f-7a, but a consumer loan business may engage in transactions that are governed by 12 U.S.C. 1735f-7a.

~~(1)~~(2) "Consumer ~~type~~ loan business" means the business of making consumer loans ~~generally repayable in substantially equal installments~~ as a licensee under this chapter.

~~(2)~~(3) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

~~(3)~~(4) "License" means one or both of the licenses provided for by this chapter.

~~(4)~~(5) "Licensee" means the person holding a license.

~~(5)~~(6) "Person" means individuals, partnerships, associations, corporations, and all legal entitie in the loaning business."

Section 2. Section 32-5-103, MCA, is amended to read:

"32-5-103. Engaging in business of making consumer loans restricted. (1) Except as provided i subsection (5), a person may not engage in the business of making consumer loans or advances of mone on credit in any amount and contract for, charge, or receive directly or indirectly on or in connection wit any loan or advance any charges, whether for interest, compensation, consideration, or expense, excep as provided in and authorized by this chapter. A person engaged in business as a licensed pawnbroker may not become a licensee under this chapter~~, nor do any of the~~. The provisions of this chapter do not apply to any exempted person.

(2) A licensee may sell its business and assets to a bank, building and loan association, savings and loan association, trust company, credit union, credit association, development credit corporation, or bank holding company organized pursuant to state or federal statutory authority and subject to supervision, control, or regulation by an agency of the state of Montana or an agency of the federal government. All contracts for loans and all other contracts entered into by the licensee pursuant to the provisions of this chapter that are sold and transferred to an acquiring organization continue to be governed by the provisions of this chapter.

(3) The provisions of subsection (1) apply to any person who seeks to evade its applications by any device, subterfuge, or pretense.

(4) Any act by a licensee in the making of a contract or in the collection of a loan made under the contract that violates the provisions of this chapter is void. The licensee has no right to collect, receive, or retain any principal, interest, or charges.

(5) A consumer loan licensee or a person who seeks a regulated lender exemption under 31-1-112 as a consumer loan licensee shall fully comply with this chapter. A regulated lender as defined in 31-1-111, other than a consumer loan licensee, or a lender who complies with the provisions of Title 31, chapter 1, part 1, is not required to comply with this chapter."

Section 3. Section 32-5-203, MCA, is amended to read:

"**32-5-203. Conduct of other business in same office.** A licensee may conduct the business of making consumer loans under this chapter within any office, room, or place of business in which any other business for which a license under this chapter is not required is solicited or engaged in or in association or conjunction ~~therewith~~ with the business unless the department ~~shall find~~ finds, after a hearing, that the other business is of ~~such~~ a nature that ~~such~~ the conduct tends to conceal evasion of this chapter or of the rules made ~~hereunder and shall~~ under this chapter. If the department finds concealment or evasion, it shall order ~~such~~ the licensee in writing to desist from ~~such~~ the conduct."

Section 4. Section 32-5-302, MCA, is amended to read:

"**32-5-302. Installment payment -- contract period.** (1) A licensee may not enter into any contract of loan:

(a) of $300 or less, exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than 21 calendar months from the date of making the contract;

(b) for more than $300 to and including $1,000, exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than 25 calendar months from the date of making; or

(c) for more than $1,000 to and including $2,500, exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than 48 calendar months from the date of making.

(2) Each loan contract requires payment of principal and charges in installments that are payable at approximately equal periodic intervals, except that payment dates may be omitted to accommodate borrowers with seasonal incomes. ~~An~~ With respect to a loan on which charges are made on an add-on basis, an installment contracted for may not be substantially larger than any preceding installment. When a loan contract provides for monthly installments, the first installment may be payable at any time within 45 days of the date of the loan and the charges for the number of days in excess of 30 from the date of making may be added to the scheduled amount of the installments."

Section 5. Section 32-5-307, MCA, is amended to read:

"**32-5-307. Records to be kept.** Each licensee shall keep or make available in each licensed office

~~such~~ the books, accounts, and records ~~as~~ that the department ~~shall require~~ requires and ~~as~~ that are necessary to enable the department to determine whether the licensee is complying with this chapter and with the rules promulgated ~~thereunder~~ under this chapter. The licensee shall preserve ~~such~~ the records for at least 2 years after making the final entry on any loan recorded ~~thereon~~ in the records."

Section 6. Section 32-5-503, MCA, is amended to read:

"**32-5-503. Early payment.** The borrower may at any time pay all or any part of the unpaid balance in ~~his~~ the borrower's account, or if the account is not in default, the borrower may pay the unpaid principal balance in monthly installments, subject to minimum payment requirements as determined by the licensee and set forth in the open-end loan agreement. ~~Minimum~~ With respect to a loan on which charges are made on an add-on basis, minimum monthly payments ~~shall~~ must be made in ~~such~~ an amount ~~as~~ that would result in the full repayment of the initial loan advance, exclusive of any charges, within the maximum term set forth for other loans of the same amount in 32-5-302(1)."

Section 7. Section 32-5-505, MCA, is amended to read:

"**32-5-505. Security.** A holder of a supplementary license may take a security interest in personal property to secure an open-end loan and may retain ~~any such~~ the security interest until the open-end account is terminated. A holder of a supplementary license may take a security interest in real property to secure an open-end loan and may retain ~~any such~~ the security interest until the open-end account is terminated~~; however~~. However, if there is no outstanding balance in the account and there is no commitment by the licensee to make additional advances, the licensee shall, within ~~10~~ 30 days following written request by the borrower, deliver to the borrower a release of the mortgage or a request for reconveyance of the deed of trust or trust indenture on any real property taken as security for a loan."

NEW SECTION. **Section 8. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

-END-

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on February 21, 1997, at 9:00 A.M., in ROOM 410.

ROLL CALL

Members Present:
Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. Debbie Bowman Shea (D)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Bea McCarthy (D)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Services Division
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: SB 379; 2/18/97
Executive Action: SB 379; SB 270; SB 378; SB 381; HB 117
SB 376 DO NOT PASS

{Tape: 1; Side: A; Approx. Time Count: 9:01 AM; Comments: N/A.}

HEARING ON SB 379

Sponsor: **SENATOR J. D. LYNCH, HD 19, BUTTE**

Proponents: **Jerry Loendorf, MT Consumer Finance Assoc.**
Donald Hutchinson, Department of Commerce, Banking & Financial

Opponents: **None**

Opening Statement by Sponsor:

SENATOR J. D. LYNCH, HD 19, BUTTE. SB 379 generally revises and updates certain provisions of the Montana Consumer Loan Act. The Montana Consumer Loan has never previously defined in the law and this bill now provides a definition. It would also allow certain loans to be repaid in other than equal installments and by the mortgager shall be released within 30 days after payment. There was an amendment that I hope you will consider. Thank you.

Proponents' Testimony:

Jerry Loendorf, MT Consumer Finance Assoc. The bill does what the sponsor just explained. I have a couple of amendments **(EXHIBIT 1)** that I will run through with you. They are very simple.

Don Hutchinson, Department of Commerce, Banking & Financial. I speak in support of the bill and the amendments. We request your support. Thank you.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

SEN. LYNCH closed.

EXECUTIVE ACTION ON SB 379

Motion: SEN. DEBBIE SHEA MOVED DO PASS SB 379.

Amendments: SEN. SHEA MOVED to Amend SB 379 (EXHIBIT 1) sb037901.abc.

Vote: The motion TO AMEND SB 379 CARRIED UNANIMOUSLY: 6-0

Motion/Vote: SEN. SHEA MOVED DO PASS AS AMENDED SB 379. The motion CARRIED UNANIMOUSLY: 6-0.

{Tape: 1; Side: A; Approx. Time Count: 9:09 AM; Comments: N/A.}

EXECUTIVE ACTION ON SB 378

Motion: SEN. STEVE BENEDICT MOVED DO PASS SB 378.

Amendments: SEN. BENEDICT MOVED to AMEND SB 378 (EXHIBIT 2) sb037801.abc.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1
DATE 2-21-97
BILL NO. SB 379

Amendments to Senate Bill No. 379
First Reading Copy

Requested by Senator Lynch
For the Committee on Business and Industry

Prepared by Bart Campbell
February 21, 1997

1. Page 1, line 24.
Strike: "real estate-secured"

2. Page 3, line 5.
Following: "business"
Insert: ". "Other business" may include making loans not primarily for personal, family, or household purposes,"

HEARING ON 368

Opening Statement by Sponsor: **Sen. Lynch,** S. D. 19 introduced SB 368. **EXHIBIT 1.**
{Tape: 1; Side: 1; Approx. Time Count: .04; Comments: None.}

Proponents' Testimony:
Dave Brown, MT Independent Machine Operators. EXHIBIT 2.
{Tape: 1; Side: 1; Approx. Time Count: 1.8; Comments: None.}

Larry Akey, Coin Machine Operators. EXHIBIT 3.
{Tape: 1; Side: 1; Approx. Time Count: 5.0; Comments: None.}

Opponents' Testimony: None

Questions From Committee Members and Responses:
{Tape: 1; Side: 1; Approx. Time Count: 5.1; Comments: None.}

Closing by Sponsor: **Sen, Lynch** closed. **Rep. Devaney** to carry.
{Tape: 1; Side: 1; Approx. Time Count: 5.9; Comments: None.}

HEARING ON SB 379

Opening Statement by Sponsor: **Sen. Lynch,** S. D. 19 introduced the bill.
{Tape: 1; Side: 1; Approx. Time Count: 6.2; Comments: None.}

Proponents' Testimony:
Jerry Lindorf, MT Consumers Finance Assn.
{Tape: 1; Side: 1; Approx. Time Count: 7.0; Comments: None.}

Don Hutchinson, Commissioner of Banking. EXHIBIT 4.
{Tape: 1; Side: 1; Approx. Time Count: 9.0; Comments: None.}

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor : **Senator Lynch** closed.
{Tape: 1; Side: 1; Approx. Time Count: 11.3; Comments: None.}

HEARING ON SB 89

Opening Statement by Sponsor: **Senator Beck,** S D 28 introduced SB 89.
{Tape: 1; Side: 1; Approx. Time Count: 15.0; Comments: None.}

EXHIBIT 4
DATE 3/21/97
SB 379

Amendments to Senate Bill No. 379
Third Reading Copy

For the Committee on Business and Labor

Prepared by Bart Campbell
March 21, 1997

1. Page 1, line 22.
Following: "for"
Insert: "personal, family, or household"

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL DATE 3/27/97

NAME	PRESENT	ABSENT	EXCUSED
Bruce Simon, Chairman	✓		
Paul Sliter Vice Chairman	✓		
Bob Pavlovich, Vice Chairman	✓		
Joe Barnett	✓		
Rod Bitney	✓		
Sylvia Bookout	✓		
Charles Devaney	✓		
David Ewer	✓		
Kim Gillan	✓		
Billie Krenzler	✓		
Bob Lawson	✓		
Rod Marshall	✓		
Gay Ann Masolo	✓		
Wes Prouse	✓		
Carolyn Squires	✓		
Jay Stovall	✓		
Cliff Trexler	✓		
Joe Tropila	✓		
Carley Tuss	✓		

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

_____ COMMITTEE BILL NO. _____

DATE _____ SPONSOR(S) _____

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Mike Strand Helena	Montana Independent Telecommunications Systems	SB89		✓
Don HUTCHINSON	BANKING & FINANCIAL DIVISION - COMMERCE	SB 379		✓
Tom Ebzery	US West Comm.	SB89		✓
JAMIE Doggett for MARY Doggett	Montana Library Commission	SB87		With Amend.
Lois Fitzpatrick	MT. Library Assoc.	SB 89		✓
Barbara Ranf	US West Communcatn	SB89		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Business & Labor COMMITTEE BILL NO. _____

DATE 3-27-97 SPONSOR(S) _____

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
DAVE BROWN	Mt. Independent Machine Operators Assn	SB 368		X
LARRY AKEY	MT COIN MACHINE OPERATORS ASSOC & VLC	SB 368 & AMEND		X
Robert Ekblad	HB 5 Springs Telephone	SB 89	✓	
Linda Adams	AT+T	SB89		X with amdmts
Dan Mandeville	Mont. Tel. Assoc.	SB89		✓
LARRY AKEY	AT & T	SB89		SUPPORTS W/ AMEND
JAMES D. FREEMAN	SALISH KOOTENAI COLLEGE	SB89	✓	
Janet Rowday	Mt. Consumer Finance Assn	SB79		✓
Jay Wilson Preston	Ronan Telephone Co.	SB89	✓	
Danny Oberg	PSC	SB89		X with amendments
Patrick Hogan	Touch America	SB89		✓
DENNIS GREEN	Budget Finance Mt Consumer Finance	SB79		✓
Gary Wiens	Mt. Electric Coops Assn	SB89		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.